



Below Market Rate Program Manual

The City of Morgan Hill
2014 - 2015

Introduction

About the Manual

This manual contains the guidelines that establish the process for the City of Morgan Hill's affordable housing program, also known as the Below Market Rate (BMR) housing program. The purpose of this manual is to outline:

1. Program eligibility criteria
2. Application processes for prospective purchasers
3. The processes and procedures for owners that currently own in the program.

All interested applicants are encouraged to review the BMR program manual **prior** to application, to learn more about the benefits as well as the process for purchasing a BMR home through the City of Morgan Hill; to learn more about what to expect when applying to the program and during homeownership.

All applicants will receive a copy of the BMR program manual and a sample deed restriction package to review prior to the execution of any sales agreement.

The program manual may be updated from time to time to increase the program's effectiveness. Modification may require City Council approval.

In the event there is a conflict between the BMR deed restrictions and the BMR program manual, the recorded BMR deed restrictions will always prevail.

BMR Program Administration

The [City of Morgan Hill's Housing Division](#) in cooperation with [Neighborhood Housing Services Silicon Valley](#) (NHSSV) operates the Below Market Rate (BMR) housing program to provide affordable homeownership opportunities in the City of Morgan Hill. The City of Morgan Hill has contracted with NHSSV to act as the BMR Program administrator. The following are the services provided by NHSSV on behalf of the City of Morgan Hill

- Homebuyer education
- Homebuyer application evaluation and selection processing
- Mortgage counseling and financial servicing
- Facilitation of homebuyer/developer interaction
- Compliance monitoring
- Annual certifications
- Customer service activities
- Real estate sales (real estate agent for listing and selling new development and re-sale BMR homes)

Fair Housing Policy

Program participants must comply fully with all Federal, State, and local non-discrimination laws. Specifically, program participants and program administrators will not be permitted to discriminate against any prospective applicant based on race, color, sex, religion, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, or deny any family or individual the opportunity to participate in the City of Morgan Hill BMR program.

Privacy Rights

All eligibility applications are held in strict confidence and are not considered public records (H&SC Section 34332). Requests received by the City to release information involving a homebuyer or homeowner must be accompanied by a written release request from the homebuyer or homeowner and/or court order, unless disclosure is authorized under Federal or State law.

H&SC Section 33334.3 requires redevelopment agencies to compile, maintain and make available to the public on the internet, a database of existing new and substantially rehabilitated homes that are subject to income and BMR deed restrictions. The online database can be annually updated. With the dissolution of redevelopment agencies in 2012, successor agencies of redevelopment agencies are required to compile information.

NHSSV

Brokerage: Neighborhood Housing Services Silicon Valley
BRE# 01324196 & NMLS# 259971

Broker: Robyn Van Ekelburg
BRE# 01336834 & NMLS# 334668

City of Morgan Hill's BMR Program History

Authority for the administration of the City of Morgan Hill's BMR program is found in provisions contained in the Residential Development Control System (RDCS) in the Municipal Code (Chapter 18.78) and further upheld in the policies adopted in the Housing Element of the Morgan Hill General Plan.

The Residential Development Control System (RDCS) was enacted by the residents of Morgan Hill in 1977 to regulate the growth of the major residential developments of five or more homes. Today more than 450 BMR units, individually owned, have been made available to the Morgan Hill community. These homes continue to be made available through re-sale, at affordable values, for up to 45 years, generating an on-going affordable resource for the City. With each new housing development in Morgan Hill, new affordable ownership opportunities are created adding to the City's total supply.

BMR Program Contact Information

Online: www.NHSnow.org

Email: HOO@nhssv.org

Phone: 408.579.6550

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San Jose, CA 95113

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Section 1: Introduction to the City of Morgan Hill's Below Market Rate Program

The purpose of the BMR program is to provide long-term affordable homeownership opportunities for low and moderate-income households in the City of Morgan Hill. BMR homes are sold for less than market value to low - moderate income and program eligible homebuyers. *See Section 2 for additional details on eligibility.*

Applicants that purchase a BMR home will be required to sign affordable housing documents (also known as resale agreements or BMR deed restrictions, as well as a deed of trust and a promissory note) to ensure homes remain affordable and homeowner occupied for the restricted term (generally 45 years). Homeowners can sell their home on the open market at the end of the restricted term.

The deed restrictions give the City of Morgan Hill (or its assigned program administrator NHSSV) the First Right of Refusal to purchase the BMR home for a restricted sales price if the homeowner should choose to sell during the term of the restriction. If the City of Morgan Hill opts to purchase the home, then they exercise what is known as the Option to Purchase. The City or administrator can also assign another program eligible buyer to purchase the BMR home.

The City is not obligated to exercise its Option to Purchase but the seller is obligated to give the City the option to do so.

Section 1.1: About NHSSV's Housing Department

NHSSV is a 501C3 nonprofit housing organization that serves as the BMR program administrator, as well as exclusive real estate brokerage for the City of Morgan Hill's affordable housing program.

NHSSV was incorporated in 1995 as a non-profit Community Development Organization by a group of local citizens with a mission "to promote community revitalization and economic stability by providing responsible homeownership and neighborhood services to low and moderate income families."

NHSSV is a member of the NeighborWorks America Network, a congressionally created and funded effort, and a national affiliation of 235 independent, community-based nonprofit organizations committed to community revitalization. NHSSV is a non-profit realty company and certified by the US Department of Treasury as a Community Development Financial Institution (CDFI). NHSSV is the only community-based non-profit organization in the Silicon Valley area that is approved as a direct seller and servicer by Fannie Mae.

NHSSV acts as the exclusive real estate agent for the City of Morgan Hill's BMR program. NHSSV's Housing Department contains a dedicated agent, who exclusively handles all BMR transactions. The brokerage will represent both the buyer and the seller as a dual agency in the BMR transaction and includes the following:

Contracts Administrator - supports internal staff and external partners to execute the sale and administration of BMR homes.

BMR Real Estate Coordinator - coordinates and communicates with multiple parties to close complex and multi-layered BMR transactions.

BMR Real Estate Agent – executes BMR sales including real estate, escrow and marketing activities associated with special projects and inventory. As needed, the BMR agent will hold open houses and events to market the property for sale.

BMR Processor - assists applicant BMR homebuyers and renters in the application and purchase process from orientation to move-in day and beyond.

BMR Underwriter - verifies BMR applicants meet each program and property's BMR qualifications and down payment assistance eligibility standards.

BMR Monitoring Specialist - monitors and reports on BMR homeowner deed restriction compliance.

Section 1.2: NHSSV's BMR Process Cycle

NHSSV administers the 9-step BMR Process Cycle assisting to place eligible homebuyers into homes. Each step is executed in sequential order to practice and fulfill BMR program guidelines:

Opportunity Created – NHSSV, the City and builders identify BMR homes for sale and confirm marketing responsibilities by signing a Developer Agreement and Affordable Housing Agreement; or when BMR program homeowners decide to sell, they must contact NHSSV and notify them of the intent to re-sell the home.

Structure – As in any purchase, the BMR seller must prepare the home for sale and NHSSV will determine the BMR financial program for the purchase. Staff will structure the income limits, program guidelines, deed restrictions, NHSSV approved BMR loan officers and down payment assistance.

Orientation – Applicants attend a Homebuyer Opportunities Orientation (HOO) to learn about program and mortgage qualifications and indicate interest in participation through the Self Evaluation Form.

Application –Applicants submit a BMR application with supporting documents and a mortgage pre-qualification from an NHSSV preferred lender.

Approval – NHSSV performs BMR program eligibility verification, household income certification and lender’s credit approval to issue BMR approval. Applicants attend HUD homebuyer education class.

Property Selection – Approved applicants will select homes including size and type based on unit availability and their approval from NHSSV, which will include a review based on the financing available for the purchase and the applicants’ loan pre-approval.

Contract – Approved applicants enter into a binding real estate sales contract. Deed restriction packages are prepared by NHSSV staff weeks prior to the anticipated closing. The documents will be executed by all parties and routed to the Title and Escrow Company by NHSSV staff.

Closing – This is a formal process whereby all the milestones of the purchase have been completed. These include: all loan documents are signed; funds to close are in escrow; resale restriction and deeds of trust are recorded; and the transfer of title from the seller to homebuyer occurs.

Ownership – Homebuyers become Homeowners!

Annual occupancy certification will be conducted by NHSSV staff. Homeowners are required to participate in this process, verifying that they continue to occupy the home.

Any homeowner who wishes to sell or refinance must contact NHSSV prior to doing so.

Properties are severely restricted from re-financing to access equity as resale values remain at affordable rates as a condition of purchase.

Section 1.3: How the BMR Program Works

The City of Morgan Hill’s BMR program is intended to provide affordable housing to residents who would otherwise have not qualify for purchasing a market-rate home in the City of Morgan Hill.

The BMR program is not intended to help applicants profit from property ownership. It is also not intended to allow homeowners to jeopardize (intentional or not) the City’s investment in affordable housing.

BMR homeowners purchase a home for a lower sales price with BMR deed restrictions which in return:

- Gives the City/NHSSV the First Right of Refusal and Option to Purchase;
- Requires homeowners to remain current on their mortgage payments;
- Mandates BMR homeowners must maintain their BMR home as their primary residence;
- Limits re-sale value or price;
- Limits total loans on title;
- Limits refinance amounts;
- Limits liens placed on title;
- Mandates insurance requirements;
- Requires homeowners to follow City code and ordinances; and
- Requires transfers of title to be made in accordance with applicable deed restrictions

BMR Affordable Sales Prices

The City of Morgan Hill's BMR Program requires that homes sell at an Affordable Sales Price and remain affordable for a term of 45 years. Affordable Sales Prices are assigned prior to marketing the home and are based upon California Department of Housing and Community Development (HCD) established values in Santa Clara County . Affordable Sales Prices will not be revised during a purchase transaction.

The Affordable Sales Price is determined by a formula based on Area Median Income (AMI) and the Housing Affordability Index. The Affordable Sales Price is not related to the fair market value of the home; however, the Affordable Sales Price can never exceed fair market value of the home.

Area Median Income is the median household/family income for Santa Clara County, adjusted for actual household size, as determined annually HCD. The California Association of Realtors (C.A.R.) uses the Housing Affordability Index to measure the percentage of households that can afford to purchase the median priced home in California and specific regions.

Section 1.4: BMR Homeownership versus Market Rate Homeownership

The BMR homeownership path does not mirror the market rate homeownership experience.

Experiences uniquely related to BMR homeownership are:

- Interested applicants must apply to the BMR program and demonstrate they meet defined income and first-time homebuyer eligibility requirements;
- Homebuyers must sign a BMR deed restriction, deed of trust, and promissory note in order to purchase a home at a below market price;
- The deed restrictions and deed of trust are recorded against the home at the time of purchase; and
- The homeowner must meet occupancy and resale requirements defined in the deed restrictions and deed of trust. In general, these requirements are:
 1. The homeowner must live in their BMR homes as their primary residence
 2. A homeowner may not use the home as a rental
 3. **The City of Morgan Hill retains First Right of Refusal** to purchase the property at time of resale from the owner or assign another qualified homebuyer. Failure to meet these requirements will result in default, potential loss of the home, and/or legal action.

Section 2: BMR Eligibility & Application Process

Section 2.1 BMR Program Eligibility Requirements

1. *First Time Homebuyer*

Applicants must be a First Time Homebuyer. A First Time Homebuyer is defined as those:

- Who have not owned a home (mobile homes excluded as defined by HCD) on title or mortgage loan in the last three years: or
- Have owned a home in the last three years, but no longer own the home and are a widow, widower, divorced, or displaced homemaker as defined by HCD.

2. *Household Size & Income Limits*

Low to moderate household income limits are adjusted by household size as determined by HCD. Visit www.hcd.ca.gov to view Santa Clara County income limits

3. *Homeownership Education*

Applicants must attend an NHSSV Homebuyer Opportunities Orientation (HOO) & received a NHSSV approved 8 hour US Housing and Urban Development (HUD) Homebuyer Education Certificate prior to closing (preferably prior to entering into a contract).

4. *Financing Requirements*

Applicants must be first mortgage approved by an NHSSV approved loan officer and meet homebuyer financing requirements as defined in Section 3.

Section 2.2: BMR Household Income versus Borrower's First Mortgage Income

Two types of income are used to determine applicant's ability to purchase a BMR home:

1. *BMR applicant projected household income* adjusted by family size is determined by NHSSV to establish program eligibility; and
2. *Borrower's first mortgage income* is determined by a loan officer to establish mortgage loan qualification.

BMR and first mortgage incomes are derived from using two separate methodologies:

BMR household income

- NHSSV projects household income for the next 12 months to calculate household BMR program eligibility

First mortgage borrower's income

- A loan officer averages the borrower's (person/people on the loan) income for loan qualification.

The BMR projected income versus the lender's averaged income can sometimes differ. This could potentially deem an applicant eligible for the BMR program, but ineligible for a first mortgage loan, or vice versa. In order to become approved for the program, applicants must meet the approval criteria for the BMR program and the loan.

Section 2.3: BMR Application Process & Processing Priorities

BMR homebuyers are offered an opportunity to purchase a BMR home upon program application and approval.

- ***BMR Application Submission***

In order to be eligible to purchase a BMR home, applicants must attend an orientation and submit a BMR application with supporting documentation to NHSSV's Housing Department (this is a different department than NHSSV's Lending Department). The application must include a mortgage pre-approval letter from an NHSSV preferred BMR loan officer.

NHSSV will review the application for completeness and will notify the applicant of any missing information and/or additionally required documents. Incomplete applications may not be considered for eligibility. See Appendix B to learn more about the types of documents that may be requested from the applicant household to submit a complete application. Failure to provide requested information and/or documents during the application process in a timely manner can constitute cause for denial of eligibility.

- ***BMR Application Processing Priorities***

Applications will be processed (reviewed for completeness and underwritten/verified for eligibility) in the following order:

1st Priority: BMR applications received for "First Come First Served" BMR properties. See Section 4.3 for additional details.

2nd Priority: BMR applications received for BMR properties with upcoming application deadlines

3rd Priority: BMR applications received for future available BMR properties

- *BMR Application Processing Milestones*

BMR program applicants participate in a sequential seven-step process to move their applications from submission to approval. The BMR approval process can take as little as 10 working days or as long as 4 – 5 weeks or more depending on the applicant's access to supporting documentation and responsiveness to requests for information.

Each of the seven milestones are:

1st Milestone - Applicant submits application to NHSSV's front desk (in-person or sent via tracking system - USPS certified mail, FedEx, UPS, etc.)

2nd Milestone - NHSSV screens application for processing priority and missing items

3rd Milestone - NHSSV delivers a "Needs List" with additional documents needed from applicant to complete the application

4th Milestone - Applicant submits requested deed restrictions to NHSSV

5th Milestone - Applicant receives a "Submission Notice" from NHSSV that confirms their application is complete and under the BMR Underwriter's review for verification of program eligibility

6th Milestone - BMR Underwriter reviews application and requests information as needed from the applicant

7th Milestone - BMR Underwriter issues BMR program approval, suspense, or denial

- *Application Denial Appeal Process*

The BMR Underwriter issues BMR denial letters with specific reasons for the denial.

Should an applicant receive a BMR program denial letter, the applicant has 3 business days to appeal the denial by sending a certified letter to the BMR Underwriter with third party documentation verifying the inaccuracy of the denial letter issued to the applicant by NHSSV.

For example: If the BMR Underwriter issues a denial to an applicant because a submitted child custody agreement doesn't allow the applicant to claim their dependent child as a BMR household member, and therefore the applicant exceeds the qualifying maximum household income adjusted by family size, then the applicant has 3 working days to submit a letter from the court/court order verifying the applicant meets required 50% physical custody of said child for program eligibility. See Appendix A for definition of BMR Household Member.

- **Co-Applicants**
Every person who is on title must live in the BMR home, must be eligible, must participate in each step of the application and purchase process and must agree to comply with the program requirements.

Section 2.4: Property Selection Process

Currently, the City Council of Morgan Hill has temporarily suspended jurisdictional BMR homebuyer selection preference categories; however, NHSSV employs an internal homebuyer selection process via property application deadlines. If no applicant applies for a property by the indicated deadline, then the home becomes available on a “First Come First Served” basis. All homes will be initially offered for purchase via property application deadline.

- *Homebuyer Approval Process*
Applicants can apply for homes by the indicated deadline that match their loan pre-approval amount from their bank with the home’s assigned income limits (see below).
- *Application Tiers for Property Deadlines*
There are 3 tiers of application rankings used to identify buyers who wish to select a property by the indicated application deadline.

Tier 1 – BMR pre-approved applicants

Tier 2 – BMR applicants in order of milestone that submitted their application but have yet received program approval.

Tier 3 – New BMR applicants who submit their application by the property’s application deadline.

If no Tier 1 applicants apply for the home by the application deadline, then Tier 2 applicants will be entered into a lottery. If no Tier 2 applicants apply by the application deadline, then Tier 3 applicants will be entered into a lottery. If no Tier 3 applicants apply, then the home will become available on a “First Come First Served” basis.

- *Property Points*

Tier 1 BMR pre-approved applicants are selected by total program accrual of BMR property points as explained below.

Applicants receive one BMR property point each time they submit a qualified BMR Property Interest Form (one entry per homebuyer per property per application deadline). Pre-approved applicants will receive information about how to complete a Property Interest Form upon program pre-approval (Milestone 7).

A drawing will be held if there are more than one homebuyer with the same amount of property points. If the selected homebuyer decides not to purchase the property, they lose their accrued "to date" property points.

- *Property Drawing Policy*

When it is necessary for NHSSV to conduct a drawing to select a homebuyer, it is done so privately. In order to protect the privacy of homebuyers and the program's integrity, several NHSSV staff members and occasionally a representative from the City of Morgan Hill is present at the drawing and signs a drawing affidavit to confirm homebuyer selection fairness and transparency.

Section 2.5: BMR Program Affidavit

Purchasers must sign a program affidavit and take a test to solidify their understanding of the BMR program and deed restrictions prior to closing escrow.

Section 3: City of Morgan Hill BMR Financing Requirements

BMR applicants must obtain conventional, fully amortizing, fixed interest rate mortgages with a term of no more than 30 years. No interest only loans, negative amortization loans, balloon payment loans or variable interest rate loans are permitted as they affect the homeowners' long-term ownership stability.

- Homebuyers must commit at least 3% of their own funds (cannot be financed) towards the purchase transaction;
- Homebuyers must also pay applicable closing costs; and
- Mortgage loans cannot exceed 100% of the sales price + 5% for closing costs

For the purpose of ensuring that risks to homebuyers and the City are minimized, applicants' proposed mortgage financing terms are subject to approval by NHSSV.

- *Preferred BMR Lending Teams*

BMR applications will only be accepted with supporting documentation from a NHSSV preferred BMR loan officer with preferred operations teams.

NHSSV maintains a preferred lender list. To be eligible to finance a BMR home, the lender must have been included on the NHSSV preferred lender list for at least sixty (60) days prior to the closing of the sale of the BMR home.

BMR loan officers and their teams must have previously approved the BMR deed restrictions, recording requirements and all other City-required documents associated with the sale of BMR homes.

If an applicant chooses a lender not on the list, then they should email HOO@NHSSV.org to work with NHSSV to get that lender to approve the City-required documents associated with the sale of the BMR homes.

In order for a loan officer and their operations team (loan processor & loan underwriter/operations manager) to be approved for placement on the preferred lender list, they are required to attend a lender orientation and provide written verification that all resale restriction documentation has been reviewed and approved by their legal and underwriting departments of the funding lender.

Section 4: BMR Policies & Procedures for Homeowners

BMR deed restrictions dictate policies and procedures specific to individual properties.

Some of the policies and procedures outlined in the deed restrictions that are specific to each individual BMR purchase are:

- Homeowner Occupancy Requirements & Annual Homeowner Occupation Certifications
- City Consent for Refinance Process
- Title Transfers (Including through marriage, divorce & inheritance)
- Selling Process & Procedures

Current BMR homeowners can contact NHSSV at HOO@NHSSV.org for a personalized deed restriction counseling session to discuss any questions regarding their property covenants.

Section 4.1: Homeowner Occupancy Requirements

BMR homeowners are required to live in their home as their primary residence.

NHSSV will routinely monitor homes for owner occupancy. It is a requirement of the program that homeowners are required to cooperate with NHSSV and the City to promptly provide information requested by the City when monitoring homeowner occupancy requirements.

Section 4.2: Deed Restriction Defaults

If homeowners are thought to be in default of the occupancy requirement, or any other such violation of their restriction, including first mortgage loan default, NHSSV will work with the homeowner to give them the opportunity to cure the default or the City/NHSSV could choose to exercise its Option to Purchase.

- *Homeowner Occupancy Default Referrals*
NHSSV and the City will follow up on homeowner occupancy default referrals that are received by outside parties. Such follow up will be made providing that the referral contains at least one item of information that is independently verifiable.
- *Notices of Default/Foreclosure*
The BMR program is not intended to allow homeowners to jeopardize (intentional or not) the City's investment in affordable housing. BMR homeowners must remain current on all their mortgage payments.

If a Notice of Default is recorded by a lender against on a home in the BMR program, then the homeowner will be in default of the covenants established in the restriction with the City. NHSSV or the City shall inform the owner of the action that needs to be taken to cure the default, as well as a date to remedy said default and may assist the owner to understand their options. The owner's failure to cure the default may result in the City's enforcement of its right to declare a default and exercise its Option to Purchase.

Section 4.3: Home Maintenance and Insurance Requirements

Most deed restrictions require BMR homeowners to maintain the home in good repair.

Failure by the owner to maintain their home can constitute a default under their deed restrictions and the City may then exercise remedies including exercising the Option to Purchase.

Owners are required to maintain a standard all risk property insurance policy equal to the replacement value of the home (adjust every five (5) years by appraisal, if required by the City), naming the City, and their employees, agents, officers, board members as additional insured.

Section 4.4: Military Leave & Vacated BMR Home Exemption

BMR homeowners who currently serve in the U.S. Armed Forces and are deployed out of state and cannot occupy their BMR home for more than 90 days but less than (3) years will be allowed to rent their BMR home.

BMR homeowner(s) on Military Leave will need to:

- Provide the City with a copy of their deployment orders;
- Follow NHSSV's direction on how to identify and approve a prospective tenant ;
- Sign an amendment to the BMR deed restrictions for rental due to military service with an expiration date which the City will record against said BMR home;
- The income level (as defined by HCD) of the prospective tenant will correspond to the home's BMR income category (as defined by the deed restrictions);
- Contract with a property management company during deployment.
- Will be required to re-occupy the BMR home within 90 days from the end of deployment and provide the City with a copy of any lease/ rental agreement. The lease/ rental agreement may not be for a term in excess of the period of time owner(s) will be deployed out of the area.
- If there is an active lease/ rental agreement between the owner and the tenant, then the owner must wait till the end of the lease agreement to move back in.
- However, upon a mutual agreement between the owner and the tenant, the lease may be terminated at any time. Should there be disagreement between the owner and tenant, the City will refer both owner and tenant to a landlord/ tenant arbitrate, such as

Project Sentinel for further assistance.

Section 4.5: Refinance & Subordination Requests

*BMR homeowners may be allowed to refinance their home, provided it is done in accordance with the resale restriction guidelines. BMR refinance and subordination applicants must obtain conventional, fully amortizing, fixed interest rate mortgages with a term of no more than 30 years. No interest only loans, negative amortization loans, balloon payment loans or variable interest rate loans will be allowed. **No refinance may exceed the restricted re-sale value of the home.***

The City/NHSSV may agree to subordinate the deed restrictions and may require that affordability restrictions be re-recorded if the proposed financing complies with the requirements imposed by the City of Morgan Hill BMR program.

Requests to subordinate the City's BMR deed restrictions must be made to NHSSV (HOO@NHSSV.org) by homeowners. NHSSV will review and approve or deny refinance/subordination requests.

NHSSV approval of subordination requests are subject to the determination that the homeowner is in compliance with program requirements and that the mortgage conforms to the established requirements.

It is important to note that all non-traditional mortgage loan products will not be permitted as part of any refinance. This includes ARM's of any period of time and non-amortizing loans. Therefore, only fully amortized 15-30 year loans will be allowed as part of any refinance and/or subordination approval.

In accordance with a City Council resolution, a subordination request fee will be imposed. The fee must be paid upon subordination application submission to NHSSV.

- ***BMR Mortgage Refinance Amount***

Homeowners must review their deed restrictions to understand their maximum refinance amount. BMR homes can be refinanced up to 95% of their resale value.

In most cases, the maximum refinance amount is valued at the percentage change in CPI Index between the date the BMR deed restrictions were recorded and the refinance date. In other cases, the refinance amount is valued with the percentage change in the Area Median Income (AMI) between the date the BMR deed restrictions were recorded and refinance date.

NHSSV will initially assess current BMR value at subordination application and the valuation is valid for six months. BMR valuation for refinance purposes will only be assessed once every six months.

BMR Mortgage Refinancing Requirements

A BMR home that is 100% financed and the owner requests a refinance to substantially reduce the housing payment will be permitted (\$200 per month or more).

- *Second Mortgages*

Second mortgages or lines of equity, except for the Housing Trust Silicon Valley's BMR Re-hab Loan Program, are not allowed under the BMR program.

For more information about the Housing Trust Silicon Valley's BMR Re-hab Loan Program, please visit their website at www.HTSV.org

- *BMR Homeowner Refinance Reminders*

- Call NHSSV for information and support before talking to a lender about refinancing
- Refinancing is only allowed with prior approval from NHSSV
- Don't lock your interest rate before receiving NHSSV's refinance approval
- Refinance with cash out require a hardship letter for City approval
- The refinance approval process can take up to 3 weeks or more to process
- DO NOT sign loan documents without receiving NHSSV's approval letter; and
- Homeowners may refinance up to 95% of the current BMR value (in accordance with the formula listed in the Resale Agreement)

Section 4.6: Title Transfers - Including Through Inheritance

Homeowners must review their BMR deed restrictions in order to determine if and how their homes' title can transfer.

Homeowners are not permitted to transfer title to anyone unless NHSSV has provided written approval to do so.

In most cases, title transfers can only occur between a husband and wife at marriage or divorce.

Deed restrictions dictate who can inherit the BMR home.

Homeowners with questions should contact NHSSV's Housing Department at HOO@NHSSV.org.

Section 4.7: BMR Capital Improvements & Resale Prices

The value of "capital" improvements on a depreciating scale may be added to the resale price of the home at the time of sale only.

Capital improvements are those that enhance the value of the property (verified by an appraisal) and cannot be removed at time of sale without damage to the premises.

BMR homeowners need to be aware that in order for capital improvements to be calculated into the resale value of the home they must:

- Show receipts for items to receive credit (must not be handwritten)
- Understand that capital improvements will not be equaled on a dollar to dollar expenditure
- Provide proof of all required building permits including final inspection
- Show City/NHSSV approval was obtained prior to improvement for which they want credit

Section 4.8: Reselling a BMR Home

BMR homeowners who wish to sell their home before the end of the term of the re-sale restriction are subject to the City's First Right of Refusal and must sell to another BMR program approved buyer.

BMR homes may only be placed on the open market if the deed restrictions have expired.

- *Re-Sale Process*

Each individual property's BMR deed restriction outlines the BMR resale process. Sellers must comply with all terms and conditions that determine resale process indicated in the home's recorded BMR deed restrictions.

The first action is usually to notify NHSSV or the City of the intent to sell the BMR home. The "Owner's Notice of Intent to Transfer" must be sent to NHSSV by certified mail with a return receipt requested. Notices are considered effective as of the date received.

Resale prices are assigned prior to marketing the home and are valid upon initial listing agreement through close of escrow. Re-sale prices will not be reassigned within a current transaction.

- *Real Estate/BMR Transaction Representation*

NHSSV acts as the exclusive real estate agent for the City of Morgan Hill BMR Program. NHSSV's BMR Real Estate Agent represents BMR buyers and sellers during the BMR transaction process.

- *Real Estate/BMR Transaction Fee*

Real Estate commission fees are the responsibility of the seller.

- *BMR Resale Price*

Homeowners must review their deed restrictions to understand their resale price.

In most cases, resale price is valued at the percentage change in CPI Index between the date the BMR Deed restrictions were recorded and the resale date. In other cases, resale

price is valued with the percentage change in the Area Median Income (AMI) between the date the BMR deed restrictions were recorded and resale date.

- *Seller's Responsibilities*

The seller must review their deed restrictions and follow the procedures indicated in the document to resell their home.

Seller must make home marketable as needed (This may include carpet cleaning and painting, etc.)

In accordance with California real estate laws, seller will disclose all aspects of the material facts that could affect a buyer's decision to purchase including but not limited to Homeowners Association (HOA) dues, Mello Roos Assessment District Fees, structural issues, etc.

- *Homeowners of Previously Owned (Resale) BMR Homes*

Homebuyers for BMR homes that are being resold back into the program will be chosen in the same manner the initial homebuyers were selected.

Appendix A: BMR Program Eligibility Underwriting Guidelines

Household Size

BMR income limits (determined by HCD) are adjusted by household size.

One of the first steps in determining program eligibility is determining the size of a household.

All household members who are not applicants or co-applicants, must be legal dependents and listed as a current dependent of the applicant or co-applicant on federal tax returns.

Household members are required to demonstrate one full year of current joint residency. Acceptable verification of joint residency may be in the form of the following: joint bank accounts or other shared financial history, leases or other evidence of cohabitation, or credit reports showing evidence of joint residency.

Unborn children, foster children, or children who are being pursued for legal custody or adoption cannot be used when determining household size.

- *Shared Custody*
Children living in the home under shared custody agreements must reside in the house at least 50% of the year to be counted.
- *Divorced Household Members*
Divorced or legally separated household members must provide a copy of the divorce decree or legal separation documents signed by a court officer and filed with the Court. Otherwise separated married household members must demonstrate at least one year of complete financial and residential separation at time of application for the couple to be considered separate for purposes of determining eligibility. If this cannot be demonstrated, the couple must submit the application as co-applicants.

BMR Household Income

The Morgan Hill BMR program requires that the combined gross income ("Gross income" means all income as defined in California Code of Regulations (CCR) Title 25, Section 6914.) for all household members (as determined by BMR household size) eighteen or older must be included in the determination of income.

- ***Projecting Applicant Income***

BMR programs require that, for the purpose of determining eligibility, NHSSV must project annual income. NHSSV must assume that today's circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary. BMR annual income is the gross amount of income of all household members that is anticipated to be received during the upcoming 12 months..

At first glance, the income information may seem very basic. NHSSV assesses all the facts underlying the income information collected. We review the basics of how employees are paid - hourly, weekly, monthly, and with or without overtime or bonuses or if on commission. It is important to clarify whether overtime is sporadic or predictable component of an employee's income.

An annual salary is counted as annual income regardless of the payment schedule. For example, if a teacher's annual salary is \$30,000, this is the annual income regardless if the teacher is paid over a 9 or 12 month period.

- ***Business Income***

Net income from a business owned in part or full by a BMR homebuyer will be considered when determining income eligibility.

Net income is defined as business receipts or sales less expenses plus depreciation that are essential to the operation of the business.

To estimate current net business income, NHSSV will require the three most recent Federal tax returns. At the discretion of the BMR Underwriter, one full year of business and personal checking, savings, and other investment account statements for all business owners/partners may be requested.

Applicants must also itemize business expenses that were applied to determine net business income. NHSSV will analyze all tax returns, year-to-date profit and loss statements, account statements, and income/expense forecasts when determining net business income.

NHSSV reserves the right to request an audited profit and loss statement certified by a licensed Certified Public Accountant at the expense of the applicant and/or co-applicant.

- *Asset Income*

We also examine all other types of income that come into the household, including asset income.

When an applicant household has net assets in excess of \$5,000, gross income shall include the greater of:

Actual amount of income, if any, derived from all the net household assets

Or

2.5% (passbook rate) of the value of all such assets.

Household assets are defined as liquid savings accounts, individual retirement, keogh, self-employed SEP accounts and stocks, bonds, and other forms of capital investments. Employer retirement accounts, furniture, or automobiles are excluded.

Applicants' assets shall only be considered in the transaction for the determination of income eligibility calculation. If assets are less than \$5,000, they are not counted in the income eligibility calculation. If assets are \$5,000 or above, the income derived from the assets is counted in the income eligibility calculation.

- *Supporting Documentation*

The BMR program requires that NHSSV determines income eligibility of BMR applicants by examining supporting documentation submitted with application.

NHSSV will always use third-party verification to provide independent verification of information.

Third-party employment verifications (Verification of Employment of "VOE") should state whether or not overtime and any other additional income (e.g. bonuses, commissions, cash tips) will continue.

Appendix B – BMR Application Checklist

The following materials may be requested from the applicant(s) and their household members by NHSSV during the application process to determine program eligibility and qualification.

Mortgage pre-approval letter from a NHSSV approved BMR Loan Officer stating the terms of the home loan for which you can qualify. Loan must be for a 30-year fixed loan and include the loan amount, homebuyer' name and address, purchase amount (if known), rate, and expiration date – include full loan amount on FHA & PMI amount	Determines homebuyer mortgage qualification
BMR Application Affidavit (signed by all household members 18 years old and older)	Confirms all adult household members understand the BMR application process & BMR program
Borrower Certification and Authorization (signed by all household members 18 years old and older)	Confirms all adult household members understand how the information in their application will be used to determine eligibility
Attendance at NHSSV BMR Orientation – Homebuyer Opportunities Orientation “HOO”	Verifies applicants completed the required Orientation
Verification of Employment for all adult household members	Third Party Income Verification
Borrower's (person on the loan) credit report	Confirms first time homebuyer status
Federal Tax Returns & W-2's	Analyzes First Time Homebuyer eligibility, household income confirmation, household size confirmation and reviews assets and confirms address
Paycheck Stubs	Assists in determining household earned income and frequency
Proof of Additional Income such as unemployment or other sources (For All Adult Household Members 18 Years Old & Older)	Assists in determining household income and frequency
Alimony or Child Support Documentation – if applicable	Assists in determining household income and frequency
Year-to-Date Profit & Loss Statement (self-employed borrowers)	Analyzes self-employment income
Bank Statements: Checking, Savings, Retirement, Investment, Etc. (For All Adult Household Members 18 Years Old & Older)	Assesses information about assets, deposits, transfers, and payments for BMR income qualification and lending requirements

CA IDs for Adult Household Members 18 Years Old & Older)(front and back) Copies of Social Security Cards (For All Household Members) , Birth certificates or copy of valid US passport (For All Household Members 17 years old and younger) Copies of H-1 Visa or Green card (front and back) (For All Adult Household Members 18 Years Old & Older)	Helps to establish household identity and current address
Divorce Decree or Separation Agreement	Verifies household income, assets and debts
Custody Orders	Verifies custody arrangement for household size
8 Hour Homebuyer Education Certificate - - Email David Kausek for registration info at: dkausek@nhssv.org	Confirms program eligibility
Other Requested Documentation	NHSSV may request additional documentation as necessary to confirm BMR program and first mortgage eligibility and qualification.

Appendix C: Frequently Asked Questions about Program Eligibility

Question: Are mobile homeowners eligible to apply?

Answer: Yes. Those who own mobile homes are not considered home owners under the BMR program and are eligible to participate if they meet eligibility criteria.

Question: Can non-U.S. citizens apply?

Answer: Although proof of U.S. citizenship is not required to apply for the BMR program, non-permanent residents will need to obtain information from their lender on requirements for non-permanent residents to obtain financing.

Question: How much of down payment do I need?

Answer: The BMR program requires a minimum down payment of 3%. The lender may determine an amount above the program's requirement of 3%.

Be aware: this 3% does not include nonrecurring closing costs.